

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on March 12, 2001 at
3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 77, SB 82, SB 169, 3/9/2001
Executive Action: HB 486, SB 169, SB 108, SB 135

HEARING ON SB 77

Sponsor: SEN. DON HARGROVE, SD 16, Belgrade

Proponents: Hank Hudson, Human & Community Services Div., DPHHS
Christine Amundson, Helena, Mt. Chapter, Nat. Assn.
of Social Workers

Opponents: None

Opening Statement by Sponsor:

SEN. DON HARGROVE, SD 16, Belgrade, said this is a pretty big bill and it makes some significant changes. Some of the major decisions regarding the welfare system are going to be made in HB 2, but this bill provides the framework, and it's an important and very essential bill. It comes from the Department of Public Health and Human Services and is often called FAIM II, Families Achieving Independence in Montana, and it is the logical progression and evolution of welfare reform in the state of Montana. Montana has been a leader in the United States in welfare reform; it's been the second highest in work participation since the inception of welfare reform, and it's had a couple of awards for movement to the work force. In 1993 Montana started asking for waivers to the current system in order to provide welfare reform and eventually did get some waivers in 1995. In 1996 the federal Personal Responsibility and Welfare Opportunity Reconciliation Act (PRWORA) was passed, which provided the TANF or Temporary Assistance for Needy Families block grants and replaced what was basically a check writing system in the past, AFDC or Assistance for Families with Dependent Children. In 1999 the evolution has seen the final regulations. Montana can now recraft the laws for more flexibility and to do what is necessary within the framework provided, and that's what this bill is. In order to do that, and from whence this bill came, the department held 25 public meetings and 11 focus groups, including really everybody throughout the state: legislators, providers, participants, tribes, advocates and the public. SB 77 contains the statutory changes. A lot of it's minor, a lot of it's technical, some of it is clean-up language. There are some things that are significant and important. It clarifies that local offices of public assistance are part of the state system, not really county offices. It allows applicants to apply for welfare in whatever county they happen to be in. It eliminates some references to FAIM. It gives rulemaking authority to the department to limit the amounts of time and benefits to be received, in accordance with federal law. It eliminates references to some of the things that the state has built for the FAIM system such as terms like Pathways. There are four things that he considers attention-

getters. The most important is that it creates the framework for what they call a non-assistance program, to assist low-income working families that are at risk, what we often call the working poor, the folks that are just barely getting along and are at the risk of going back into the point where they've got to get cash assistance. This is to provide them non-assistance, really non-cash in programs such as training, transportation, disability services, job search, those sorts of things that they need to keep themselves viable and moving forward in the work force. It authorizes the tribes to use their own rules when they operate within their own TANF program, and there are two tribes that do that. It requires oversight; the families have to enter into a Family Investment Agreement and then use assessment and evaluation services to receive benefits. It allows the state to provide cash assistance and food stamps to individuals who have been convicted of drug-related offenses if they're still on probation and they follow their drug treatment programs and requirements. It's a way to help them out of the cycle they are in. HB 2 will make a lot of the decisions in terms of spending, and this provides the framework for doing that. He thinks the block grant is \$44 million. TANF itself is \$29 million. FAIM has been an excellent program in Montana, and Montana continues to be a leader. **{Tape : 1; Side : A; Approx. Time Counter : 2.1 - 9.4}**

Proponents' Testimony:

Hank Hudson, Human & Community Services Div., DPHHS, said his department manages the TANF block grant, and he is present primarily to answer questions. The bill is an effort to update the statutes in Montana that address the issues of public assistance. Those statutes have been on the books since the original AFDC program and even before that. As federal laws changed, Montana has redesigned its programs and made an effort to engage in the most vigorous welfare reform efforts in the nation. We occasionally need to update our statutes to come into compliance, both with federal law and our own intentions. FAIM Phase II really has three goals. One goal is to assist people who remain on the case load, the 4,600 people who haven't left welfare yet, to make sure they are provided with the type of intensive services they need to succeed and leave the dependency of a monthly welfare check. The second goal is to assist those people who have left welfare but got stuck in poverty even though they are no longer receiving a welfare check; and that's the non-financial assistance piece that is included in many places in the bill. Right now the department doesn't have the authority to provide services with this block grant to people who are above the eligibility for just the cash benefit check. And that's one of the big goals of FAIM Phase II, to not just stop when people leave normal welfare, but to stick with them and try to get them out of poverty. The third goal is to put some of the block

grant money directly into the pockets of low-income families through programs such as individual development accounts and cash benefits for relatives who raise children for low-income families. The bill cites a lot of different sections and makes single one-word changes or small changes in those sections. He said rather than going through all of the changes, he would reiterate some of the more sensitive points. In many places there are references to non-financial assistance, and that is the authorization to assist people who have incomes higher than eligibility for just a welfare check. The intent is to operate this program up to 150 percent of poverty. For instance, if someone left welfare and took a job at a fast food restaurant and a year later was still working there at the same pay, still below poverty, the department could re-engage the person and provide training or whatever type of assistance the person might need to get a better job. That's one of the major changes that this bill creates. A second issue has to do with the clarification that the local offices of public assistance are state entities. They're working with the Mt. Assn. of Counties to clarify that these are state employees who are operating state programs, but will keep local government and local elected officials involved. Another change allows a person to apply for public assistance in any county, whether they live there or not. The bill replaces the term FAIM, which is a general sort of programmatic term. For purposes of statutory precision, they need to differentiate between TANF, which is the money the state gets from the federal government; assistance, which is the cash that a person gets in a check, financial assistance that starts the 30-hour work requirement and the 60-month time limit; and then non-assistance, which is what is provided to people they're trying to get out of poverty. This is not direct cash assistance to them, but might be the purchase of training, the purchase of clothing or tools, and it does not trigger the 60-month time limit or the 30-hour work requirement. Language is included in the bill that clearly in state statute authorizes tribes to operate their own separate TANF programs if they choose. There's already federal language that allows that. The department is asking for rule-making authority regarding limiting the time that people can receive benefits, which is already in federal law. A person can only receive financial assistance for 60 months during their lifetime. 20 percent of the state's caseload can exceed that 60 months. The bill eliminates current references to the Pathways, Community Service, and Job Supplement Programs, which is how they used to run FAIM before the federal law passed. They no longer have a community service program but have community service opportunities for people. The previous program was a formal program for people who didn't look like they would ever leave welfare, and the department wanted to make sure they were sort of earning their welfare check. Now with the 60-month time limit, that program is no longer needed. Pathways remains as sort of the central program of training and the cash assistance check. Job Supplement was a program they started to

provide people with all the services they could so they wouldn't need a welfare check, and they continue to do that, but it doesn't need a specific statutory delineation. The department is asking for the statutory authority that they currently have in rule to require that people enter into family investment agreements and the authority to require people to obtain assessments and evaluations that the department deems are appropriate. With 60-month time limits in place, the department feels that if a person refuses to seek an evaluation or assessment that the department feels is necessary, they want the authority to sanction them, which is a process they currently use to reduce the benefits of a person who does not comply with the family investment agreement. The final change relates to the federal law that states if a person has been convicted of a drug-related felony since August of 1996, the person can't receive food stamps or TANF benefits unless a state legislature specifically authorizes it. They ran the program in the first years denying people benefits who had drug felonies after that date, but they discovered during the focus groups that it is really counterproductive if a person has had a drug felony but they followed through on their probation and drug treatment and tried to get their life in order, to deny them and their children food stamps and cash benefits. It would encourage people to break the law again just to survive, and doesn't fit into the idea of rehabilitation and helping people. The Dept. of Corrections said they felt that they wanted people on probation to have every possible chance to succeed and not to put other barriers in their way. So it was included in the bill, and DPHHS believes it is good public policy. They would not provide benefits to people who had not followed the conditions of their probation or who, if required to receive a drug assessment and then treatment, did not follow that. Mr. Hudson said that the department is also offering amendments to the bill. One is a technical amendment that conforms to federal requirements that the state de-link AFDC from Medicaid. Before welfare reform, if a person got AFDC, they automatically got Medicaid. The federal law says a state can no longer make that link, but has to operate a separate Medicaid program called a Section 1931 Medicaid program. The other amendment would make the non-assistance provisions retroactive to January 1, 2001. The department is going to use some of their TANF money to pay for some mental health services to help resolve the supplemental situation within the department, and they want to make payments back to January 1, 2001. They'll do it under the non-assistance authority that is in the bill. **EXHIBIT(huh56a02){Tape : 1; Side : A; Approx. Time Counter : 9.4 - 21.7}**

Christine Amundson, Helena, Mt. Chapter, Nat. Assn. of Social Workers, presented written testimony in support of the bill. **EXHIBIT(huh56a01){Tape : 1; Side : A; Approx. Time Counter : 21.7 - 25.7}**

Opponents' Testimony: None

Questions from Committee Members and Responses:

Rep. Shockley asked **Karlene Grossberg, Bureau Chief, Public Assistance Bureau**, for details that would help him carry the bill in the House. He asked about a \$26 million surplus, and **Ms. Grossberg** said there were some unspent TANF block grant funds from prior years. The original amount was \$26-29 million, but that has been reduced through transfers to other divisions such as foster care, and the remaining amounts have been allocated into future year benefits as well as FAIM Phase II activities through HB 2. The money that remains unspent for prior years can only be used for cash assistance benefits, so HB 2 primarily addresses next year's block grant, the \$44 million that comes in next year, plus the state's maintenance of effort money, and that is where the line items are delineated in HB 2 for expenditures. **Rep. Shockley** asked **Ms. Grossberg** to clarify the \$29 million figure, and she said that the TANF block grant analysis showed the ending balance for year 2000 was \$26 million, and the ending balance for 2001, which would be Sept. 30, 2001, is \$29.7 million. That means that money has remained in the federal treasury, and the state must have a use for it before it can be drawn down. The "old money" that remains from prior years can only be spent on the cash benefits, and then the new money, which will be next year's block grant of \$44 million, can be spent on the training and other non-financial assistance. **Rep. Shockley** asked **Ms. Grossberg** to explain what the 30 hours a week requirement means. **Ms. Grossberg** said that the federal law requires that for single-parent families the average has to be 30 hours a week, and for two-parent families, it's 35 hours a week. Those activities can be actual work, training, classes or a number of different things. They have to participate for the 30 or 35 hours, and all of those months count toward their 60 months. The only folks who would be exempt from the 60-month time limit would be those who are facing a hardship of some kind and the federal agency has allowed 20 percent of the caseload to receive benefits longer than 60 months.

Rep. Schmidt asked **Sen. Keenan** if he wanted to add something. **Sen. Keenan**, who serves on the Appropriations Subcommittee, said it would be helpful for **Rep. Shockley** to talk to **Rep. Lewis** about the specifics of the TANF-FAIM money. That money can be used for education. They've allocated about \$16 million, one time only, to be spent in the next two years as a hand-up to all these people. The federal government will be reassessing all of their block grants, beginning in October, 2002, and if we have \$20-some million in an account in Washington, DC that we haven't tapped into, there is a chance that they will scoop that up, and that will be half of our block grant in some future year, so we thought we'd spend it.

Rep. Schockley asked for clarification as to whether there is \$26 million or whether it has already been appropriated as of today.

Sen. Keenan said it is in the process, and he expected there to be a "food fight" over the money as there's a lot of money to spend in a lot of different ways. Money has been put into tribal programs and Head Start for day care and other programs.

Rep. Facey asked **Sen. Keenan** if the TANF one-time only money was money the state would use to try to pull these folks out of poverty and get them into higher-paying jobs, if that would commit the state to future expenditures. **Sen. Keenan** said they are being careful not to commit to future expenditures, but they are trying some experimental programs that might work for future funding.

Rep. Facey asked **Karlene Grossberg** if this could be considered boilerplate language for how the state would deal with TANF and welfare reform. **Ms. Grossberg** said the bill is pretty much the outline of what Montana needs to have in place to take the opportunity to use the flexibility that the federal agency has given us with this money. **Rep. Facey** asked how many TANF recipients Montana had four to six years ago. **Ms. Grossberg** said there were about 11,500, almost 12,000 families on assistance in 1995 and 1996, and right now we have about 4,600 families. **Rep. Facey** asked about how Montana has met the work requirements for FAIM participants. **Ms. Grossberg** said Montana was second in the nation for performance in the work requirement area. There's a provision in the federal welfare law, called a caseload reduction credit, that allows a state to reduce the percentage of families that need to be working. When you apply the caseload reduction credit with Montana's actual work participation, we have excelled, and this year we received about a \$2.2 million bonus for our work participation rate. Without that caseload reduction credit, Montana may have been very close to not meeting the two-parent family rate, which is that 90 percent of those families have to be working, and our figure was 89 percent without the credit. With the credit, we were way above that.

Rep. Brown asked **Sen. Keenan** to clarify what he had said about education as a work requirement that would cost \$14 million. **Sen. Keenan** said there have been several different figures passed around, and he thought the subcommittee was considering \$16 or \$17 million that was money aside from what the department had. Pat Gervais in the LFD has done a lot of work on the flexibility of these funds and how they can be used. Using the work requirement and considering school to be work was acceptable. The feds have opened up their flexibility on these funds quite a bit.

Rep. Brown asked why it costs money to allow people to use part of their time for education as part of the work requirement. **Sen. Keenan** said it would be cash assistance, and he thought they'd be

paying tuition as well as child care. Ms. Grossberg said she thinks HB 425 was the bill that was so costly, and that called for individuals to go to school with no time limit and provided that child care be paid on a one for two basis, two hours of child care would be paid for every credit hour that was being taken in college. That bill didn't meet the requirements of the Child Care Development Fund block grant for child care, and because the time limit and hours of work didn't coincide with federal TANF requirements, they felt it would have to be funded out of the state's maintenance of effort money, and that would have meant switching over present maintenance of effort program funding to federal funding or to eliminate some present programs.

Rep. Lee asked **Karlene Grossberg** if she received any input on this from WEAL or other groups. **Ms. Grossberg** said they received some input but not a lot on this bill, but had received considerable input on proposed line item expenditures such as housing, education and transportation. They haven't had a lot of comment on the technical provisions in SB 77, but the idea of restoring benefits to drug felons who had complied with their probation and treatment programs was accepted positively by the advocates. **Rep. Lee** asked if they had requested comments, and **Ms. Grossberg** said they had sent out copies of the draft bill several months ago.

Rep. Esp asked **Ms. Grossberg** if Mr. Hudson's statement about the removal of community service requirements from FAIM was true, and she said yes. When FAIM was designed with the community service component, the idea was that if families weren't working at the end of two years, they could go into community service in exchange for the cash grant. When the federal law was passed and it provided for a 60-month time limit on everyone, the feeling of Montana's workers, advocates and participants was that they should focus more intensely on training and services up front so they never had to reach the five years, so they sort of traded out the types of services provided to the families throughout the five years and said that community service could be a work experience. {Tape : 1; Side : A; Approx. Time Counter : 25.7 - 30} {Tape : 1; Side : B; Approx. Time Counter : 0 - 14}

Closing by Sponsor:

Sen. Hargrove said that this bill is the framework, and the real decisions on the money that ultimately affect the program will be made in HB 2. All of the parts in this bill will be considered in that process, so this is the logical evolution and the welfare programs will continue to evolve, particularly as they have to relate to federal programs. It's important to do this, it's a good bill and it has received all of the right kinds of input and work. It passed the Senate with no "no" votes and he hopes it will do

that in the House as well. {Tape : 1; Side : B; Approx. Time Counter : 14 - 15.8}

HEARING ON SB 82

Sponsor: SEN. BOB KEENAN, SD 38, Bigfork

Proponents: Dr. Donald Harr, Mt. Psychiatric Assn. & Mt. Medical Assn.

Dan Anderson, Dept. of Public Health & Human Services

Al Davis, Mental Health Assn. of Mt.

Sami Butler, Mt. Nurses' Assn.

Erin McGowan, Mt. Council of Community Mental Health Centers

Jim Ahrens, Pres., Mt. Hospital Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. BOB KEENAN, SD 38, Bigfork, said this is a bill to clean up some statutes. When Montana came up with the managed care contract with Magellan two years ago, they went to work on a bill to try to rebuild the public mental health system. SB 534 became that vehicle in the 1999 session. This bill cleans up the statutes from that bill. It's not necessarily an active bill; it's more preventative in nature. He doesn't believe that the specifics of this bill in some areas, especially in managed care, will be used any time soon. As amended, the bill provides a higher degree of protection against repeating the mistakes that the state made with the mental health access plan and the resulting managed care private contract. Medicaid and non-medicaid mental health benefits are separated in the bill. The department is allowed to enter managed care agreements that can be tailored to local service needs. The bill requires adequate provider networks and that they demonstrate financial solvency. The Insurance Commissioner wanted to be taken out of this process, and that's why the language is in the bill. The department at this point in time has to fulfill this financial review outside with an independent reviewer. There is a zero fiscal note on the bill. Basically the bill is a rearrangement of items from SB 534, cleans up the past and is enabling legislation for future mental health bills, some of which are in the pipeline right now. Section 1 takes the Insurance Commissioner out of the picture if the state ever does have another managed care contract. Section 2 allows managed care and ties it to the medicaid statutes. Section 3 deals with eligibility for the mental health state plan, and this is already in mental health statutes in other places in the MCA. It does not change any eligibility; that's done internally. Section 4

is the medicaid statute in the event the state does go down that road. Section 5 redefines a managed care community network. At some certain level of services, the state needs to follow the process outlined in Section 6. Section 7 is the mental health statutes in which SB 534 is cleaned up. Things are moved around, but there really isn't much of an impact. Section 8 deals with the mental health system eligibility for services and moves the advisory council language from Section 7 to Section 8. Again, it's mostly a rearrangement of the items from SB 534. **{Tape : 1; Side : B; Approx. Time Counter : 15.8 - 20.4}**

Proponents' Testimony:

Dr. Donald Harr, Mt. Psychiatric Assn. & Mt. Medical Assn., said they are very much in favor of the bill. It covers the aspects of clarifying and correcting problems that were in the previous bill, SB 534. It also makes it possible to go ahead with the plans which the oversight advisory council is working on to assist the department in the establishment of future mental health care for the public sector. He requests and recommends that the committee consider the bill favorably. **{Tape : 1; Side : B; Approx. Time Counter : 20.4 - 22.3}**

Dan Anderson, Dept. of Public Health & Human Services, said that this bill is one of the accomplishments of the HJR 35 committee that met during the interim to study mental health issues. DPHHS worked with that committee and Sen. Keenan in developing the bill. It clarifies, strengthens and to some extent simply reorganizes the bill that was passed in the last session. The major things that the department sees this bill doing that are helpful are, first of all, it simply does some reorganization and puts those parts of the law that deal with mental health managed care with the mental health statutes. It leaves those parts that deal simply with the department's general role in managed care, whether it's in the mental health or other health care areas, in that section of law. Secondly, it removes the Insurance Commissioner from the role of assessing financial solvency of managed care community networks and instead gives the department the responsibility to adopt rules and criteria for judging the financial solvency of those types of entities. Third, it clarifies the definition of what a managed care community network is. One of the things that happened in the past two years is, in reading the existing definition, there was some fear that it actually could apply to any provider who provides services funded by DPHHS and could require any provider to meet those criteria, which is certainly not the intent. Finally, it establishes certain requirements of the mental health system, whether or not a managed care program is entered into. As an example of that, it requires DPHHS, as part of the mental health system in serving emotionally disturbed children, to develop some

kind of a tracking mechanism for children who are served, not just in mental health but also in education and protective services.{Tape : 1; Side : B; Approx. Time Counter : 22.3 - 24.9}

Al Davis, Mental Health Assn. of Mt., said they are in strong support of the bill.{Tape : 1; Side : B; Approx. Time Counter : 24.9 - 25.3}

Sami Butler, Mt. Nurses' Assn., said they support the bill and see it as a continuation of the process that was started last session.{Tape : 1; Side : B; Approx. Time Counter : 25.3 - 25.6}

Erin McGowan, Mt. Council of Community Mental Health Centers, said they were involved with working on SB 534 last session, and they support the tightening up of the language and statutes this session.{Tape : 1; Side : B; Approx. Time Counter : 25.6 - 26.5}

Jim Ahrens, Pres., Mt. Hospital Assn., said they support the bill.{Tape : 1; Side : B; Approx. Time Counter : 26.5 - 26.7}

Opponents' Testimony: None

Questions from Committee Members and Responses:

Rep. Shockley asked **Sen. Keenan** to comment on his perception that the Magellan debacle was engendered by the fact that the Insurance Commissioner was not involved and the department didn't have a clue as to what insurance was about. **Sen. Keenan** said at the time of developing the plan and the request for proposals that led to the managed care contract, it was his understanding that the Legislative Auditor had a role to play in that, and that was an oversight that did not happen. The Insurance Commissioner's office was put in an uncomfortable position, not having any expertise specific to mental health. They were not involved as they may have been. Basically, the state developed the plan, went to contract and then backed off and thought that their job was done, and obviously it wasn't done. **Rep. Shockley** asked **Mr. Anderson** if the people that manage Magellan now want to manage any entity that provides managed care for mental health without benefit of the State Auditor. **Mr. Anderson** said what the bill does is remove the requirement that the Insurance Commissioner determine the financial solvency of a potential contractor with the state. It also includes specific criteria for financial solvency, which had been established by the department through the rule-making process. **Rep. Shockley** said that the problem with Magellan was that they weren't solvent or efficient. **Mr. Anderson** said that the problem with Magellan was not the solvency of Magellan. The problem was their contract

performance and their ability to fulfill the contract in a way that was satisfactory, particularly to service providers. **Rep. Shockley** said that he remembered the testimony of the previous State Auditor that Magellan wasn't even close to qualifying as a bona fide insurance company, that they never would have qualified here; and we bailed them out with the \$11 million bond they left that we should have kept in the first place. **Mr. Anderson** said he wasn't familiar with that testimony. The bond that they put in place was used to pay providers that they owed money to, which was exactly what the purpose of the bond was. **Rep. Shockley** said he thought he had mis-spoken; the Commissioner didn't say they were insolvent but said that they would never qualify as an insurance company. But the purpose of that bond was to protect the state in case Magellan was ever sued and we were part of the lawsuit. But what we ended up doing was taking that \$11 million and paying their bills that they hadn't paid. **Mr. Anderson** said the bond was to be used if they went out of business and left the state with bills to pay. They didn't go out of business so it was appropriate for them to use that money to pay providers. **Rep. Facey** asked **Sen. Keenan** if the state is trying to build a "seamless delivery system." **Sen. Keenan** said that is still a dream on the horizon. He doesn't know that we'll ever have such a mental health system. The present system is so complex, with interaction between the schools, judicial system, juvenile justice system, the separate adult and children's systems; and with the nature of mental illness and the system, he doesn't know if there can ever be a system that won't need problem solving. **Rep. Facey** asked how the state is developing a gatekeeper to help with this flow. **Sen. Keenan** said gatekeeper is a buzzword right now, and specific to the State Hospital. Sen. Waterman has a current bill related to developing a gatekeeper system. **Mr. Anderson** said this bill, which is SB 458, would try to put a more deliberate review process into admissions to the State Hospital, so we know that persons who are admitted genuinely need to be in the State Hospital. Another of Sen. Waterman's bills relates to children's mental health services and having the department try to get the various service systems working together at the state and local levels, including special education, protective services, juvenile probation, and DOC system. Part of that is a gate keeping function, in that if the service systems are organized at the local level, they hopefully will serve the child in his own home or in the community and not in out-of-home care. The state also has a utilization review organization, First Health, which has regional clinical coordinators around the state. That's a relatively new feature in the system. Those individuals are responsible for helping people, particularly children, find local community-based services to avoid the higher-end services.

Rep. Esp asked **Sen. Keenan** to explain Section 6 and changes regarding the Insurance Commissioner's role since the bill was

originally proposed. **Sen. Keenan** referred the question to the representative of the Insurance Commissioner's office, because they had proposed the change. **Claudia Clifford** said she had participated on the Mental Health Oversight Committee during the last year and a half so had a sense of the direction in which they wanted to go in terms of reforms to the system. They're looking at regional contracts with mental health providers, which is very different from a contract with a large entity that's an insurance company. They still have the option to contract with an insurance company that her office would still regulate, but if they enter into smaller contracts with provider groups that involve some risk sharing, they are very different situations than her office deals with in regulating an insurance company. The bill sets up a situation where the department would enter into a contract, and they have the tools to regulate it, to change provider rates and to enforce the contract. The Insurance Commissioner has none of those tools, so it would be an awkward regulatory situation for them. They felt that it worked better for the department who held the contract to have a CPA or actuarial firm help them enforce their own contracts.

Rep. Rice asked **Sen. Keenan** to comment on some of the specific proposed changes on pages 11 and 12, including the department's flexibility and the make-up of the Oversight Advisory Council. **Sen. Keenan** said the advisory council contains some high functioning mentally ill people and secondary consumers, who are family members. Although it gives the department flexibility, they are limited in flexibility with the budget. **Mr. Anderson** said that language with which she was concerned had been moved from another section of current law, so it isn't new language. The section that talks about establishing the amount, scope and duration of services is the protection that the department and the legislature has, because it puts the responsibility on them that whatever the upper limits they have the authority to go to, they still have to live within the appropriation. **Rep. Rice** asked what happened last biennium. **Mr. Anderson** said that they lacked a history of the cost of the services, they had contracted out to the Magellan Group, the number of cases and the cost per case continued to grow, and before they had a chance to put into place the kinds of budget controls we now have, they'd overspent the budget. There are now caps on the memberships of the non-medicaid program, some provider rates have been reduced and some services have been eliminated.

Rep. Schmidt asked **Sen. Keenan** if he wanted to say anything about the development of the mental health plan since he'd spent a lot of time working on it. He said the state is looking at a regional system, and hopefully the borders of the regional system and the children and the adult system will match up. He described some of the problems that have occurred. The Mental Health Oversight

Advisory Council serves the functions as outlined in last session's SB 534, but also is the planning and advisory council required by the federal government. They are to be planning rather than managing or micro-managing or reacting. They need to be proactive in the long term, but they end up responding to concerns of providers, consumers and family members. He thinks they developed one of the best mental health systems in the world in Montana, but we can't afford it, so we have to prioritize our needs. The best place to start is that we need to protect people from the mentally ill who would be prone to doing harm to others. In the children's system, that's the fetal alcohol syndrome: fetal alcohol-effect kids who don't have a conscience, the girls are promiscuous, and there are some real problems. They have a propensity to hurt other people and not worry about it. In the adult system, there are schizophrenics who hear voices and might hurt other people, and that needs to be our top priority. Then we work our way down the list of priorities and do the best we can as far down as we can till the money runs out. **Rep. Schmidt** referred to pages 11 and 12, number 4, and the composition of the committee, having half of the members being consumers, and she wondered about the rest of the members. **Sen. Keenan** said the Oversight Advisory Council had filled in the rest of the committee according to federal guidelines.

Rep. Esp asked **Dan Anderson** about the references in the bill to people who aren't eligible for Medicaid, and that he'd mentioned being at 150 percent of poverty, and is this tied to other DPHHS programs at 150 percent or could it move independently of that. **Mr. Anderson** said most of the other programs, such as CHIP and food stamps, are at 150 percent of poverty. Legally they could move independent of those programs. They prefer that there's a single standard that all the programs have. The exception is the CHIP program, since part of the children's mental health program is tied to that. If CHIP were changed, they'd have to change the standard for the children's mental health programs also. **{Tape : 1; Side : B; Approx. Time Counter : 26.7 - 30} {Tape : 2; Side : A; Approx. Time Counter : 0 - 30} {Tape : 2; Side : B; Approx. Time Counter : 0 - 0.9}**

Closing by Sponsor:

Sen. Keenan thanked the committee for their questions and their interest and said he looked forward to a lot of help in trying to solve this problem. **Rep. Esp** will carry the bill. **{Tape : 2; Side : B; Approx. Time Counter : 0.9 - 2.6}**

HEARING ON SB 169

Sponsor: SEN. EVE FRANKLIN, SD 21, Great Falls

Proponents: Kathleen Martin, Chief, Communicable Disease Control
& Prevention Bureau, DPHHS
Sami Butler, Mt. Nurses' Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, SD 21, Great Falls, said SB 169 was requested by the Dept. of Public Health and Human Services. The bill states that pregnant women will be screened for hepatitis B. The reason for doing this is that hepatitis B is a communicable disease that has reached some epidemic proportions in Montana, and we've had some very serious outbreaks, including one in Cascade County. There are a number of serological or blood screening that pregnant women undergo now in order to prevent any poor outcomes for their babies, and that's syphilis and rubella. Hepatitis B, if detected early and the appropriate kinds of care are given to a neonate, meaning a little tiny baby, any sequel could really be prevented, and that is the reason for this bill. There was some question in terms of cost, but the new fiscal note shows zero. Kathleen Martin from Communicable Disease Prevention Division has ascertained that this can be included in other blood work done for pregnant women. Another reason for requesting this bill and providing some structure is that DPHHS is the entity that is given the responsibility to protect our public health, and sometimes these tests are administered but there isn't even among the physician community in terms of communicable disease, enough information on what the state of the art is. This also will define the appropriate kinds of tests that should be administered in order to protect the health of both the mother and the infant. {Tape : 2; Side : B; Approx. Time Counter : 2.6 - 9.2}

Proponents' Testimony:

Kathleen Martin, Chief, Communicable Disease Control and Prevention Bureau, Dept. of Public Health and Human Services, said the department supports this bill. They realize that it's not a trivial or a simple thing to mandate that a specific health service be performed for a specific population. However, when there is a clear threat to public health and clear protective measures are available, then that's the appropriate time to talk about mandates. Current Montana law requires pregnant women to be screened for syphilis, rubella and the RH factor. Information gained from these screening allows prospective parents and their health care providers to make the best possible preparations for a safe and healthy birth. Expectant parents who don't know their status in regards to syphilis, rubella and the RH factor take a tremendous risk for themselves and for their child. In Montana today, the new

threat of hepatitis B is facing our newborns. Undetected, it can have devastating effects on an infant. The virus is passed to the child from the mother during birth and can lead to chronic liver disease, lifelong health problems and a dramatically shortened life span. If the pregnant woman is known to be infected with hepatitis B prior to birth, the child can be treated within hours of birth and immunized against future infections and avoid all of those lifelong complications. We like to think that this is not an issue that effects us in Montana. Hepatitis B is a sexually-transmitted disease, and unfortunately, the number of cases is increasing in Montana. We need to provide a structure, an outline and some clear direction for providers to say that this is the standard of care. We have to be in line with the rest of the nation in terms of providing the right standard of care for pregnant women and their infants. The Centers for Disease Control strongly recommends prenatal screening for hepatitis B as a key protective measure. 19 other states have already instituted this requirement, and it is time for Montana to add this simple protective measure. There is no additional cost, even to the medicaid program, because hepatitis B is included in the prenatal panel that is already provided to pregnant women, and medicaid already pays for that. **{Tape : 2; Side : B; Approx. Time Counter : 9.2 - 13.4}**

Sami Butler, Mt. Nurses' Assn., said as a public health issue, nurses prefer to focus on prevention of hepatitis B rather than end-stage liver disease. This is a humane and cost-effective way to approach hepatitis B, and nurses across Montana support the bill. **{Tape : 2; Side : B; Approx. Time Counter : 13.4 - 14}**

Opponents' Testimony: None

Questions from Committee Members and Responses:

Rep. Esp asked **Kathleen Martin** about the reason for language on page 1 of the bill that eliminated the screening for hepatitis B. **Ms. Martin** said the section was in the direct-entry midwives statute, which states that they are to refer for hepatitis B on a case-by-case basis, so that kind of case-by-case judgment has been removed and they must refer for screening in all cases. It removes it as a discretionary action on the part of the midwives, who are included in the provider definitions. **{Tape : 2; Side : B; Approx. Time Counter : 14 - 18.2}**

Closing by Sponsor: **Sen. Franklin** had left to attend another hearing following her opening, so she was not present to close. **{Tape : 2; Side : B; Approx. Time Counter : 18.2 - 21}**

EXECUTIVE ACTION ON HB 486

Motion: REP. NOENNIG moved that HB 486 DO PASS. {Tape : 2; Side : B; Approx. Time Counter : 21 - 22}

Discussion: Rep. Esp said he had missed the hearing and wondered if the statutory appropriations were in the governor's budget. Chairman Thomas said apparently not. Rep. Brown asked if anybody knew what had been happening in the Appropriations Human Services subcommittee as far as foster care goes and if they had done anything about the requests that are in this bill. Nobody knew anything specific. Rep. Brown said if this bill were passed out of committee, it would be a cat and dog bill with virtually no chance of going anywhere with its \$2.4 million statutory appropriation. {Tape : 2; Side : B; Approx. Time Counter : 22 - 26}

Substitute Motion: REP. WHITAKER moved that HB 486 BE TABLED. {Tape : 2; Side : B; Approx. Time Counter : 26 - 27.1}

Discussion: Rep. Raser said she knew that she would be a broken record on this and it wouldn't change the outcome of the vote, but she wanted to go on record because somebody has to go on record that even if it's not in the governor's budget, this is good policy. Obviously not for this session, but for future sessions, when the legislature is discussing these things, perhaps they ought to consider these things when they're also considering tax breaks. If we can't afford the basic services that our people need, maybe we need to increase revenues or at least keep revenues consistent with what the people of the state need. She said that she realizes it won't make a difference in this, but it should. {Tape : 2; Side : B; Approx. Time Counter : 27.1 - 29}

Motion/Vote: REP. WHITAKER moved that HB 486 BE TABLED. Motion carried 10-8 with Dell, Facey, Jent, Lee, Newman, Raser, Schmidt, and Schrupf voting no. {Tape : 2; Side : B; Approx. Time Counter : 29 - 30}

EXECUTIVE ACTION ON SB 169

Motion/Vote: REP. BROWN moved that SB 169 BE CONCURRED IN. Motion carried unanimously. Rep. Raser will carry the bill. {Tape : 3; Side : A; Approx. Time Counter : 0 - 1.3}

EXECUTIVE ACTION ON SB 108

Motion: REP. SCHMIDT moved that SB 108 BE CONCURRED IN.

Motion: REP. SCHMIDT moved that SB 108 BE AMENDED.

Discussion: Two sets of amendments had been presented, and Rep. Schmidt said the first amendments to be considered were numbered SB010801.asf and had been requested by Sen. Franklin. EXHIBIT (huh56a03). Mr. Niss explained the amendments. After further discussion, the question was called for.

Motion/Vote: REP. SCHMIDT made a motion that SB 108 BE AMENDED. motion carried unanimously.

Motion: REP. NOENNIG made a motion that SB 108 BE AMENDED. {Tape : 3; Side : A; Approx. Time Counter : 1.3 - 12.2}

Discussion: Rep. Noennig presented an amendment numbered SB010801.and, which had been requested by the bill's sponsor, and he explained the amendment. Question was called for.

Motion/Vote: REP. NOENNIG made a motion that SB 108 BE AMENDED. motion carried unanimously.

Motion: REP. NOENNIG moved that SB 108 BE CONCURRED IN AS AMENDED.

Discussion: Rep. Esp said he had been concerned at first that Mt. State Hospital would be allowed to put all nurses on staff and no psychiatrists, but now he didn't think that's what we were doing. He had been assured that the nurses would still be under the authority of the Board of Nursing, and if they violated their scope of practice or their rules, they'd be reprimanded by the Board of Nursing. Chairman Thomas said he had discussed this bill with a woman in Billings who is in this category of nursing and had been reassured about their levels of expertise. Rep. Shockley called for the question.

Motion/Vote: REP. NOENNIG moved that SB 108 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with Shockley voting no. Rep. Schmidt will carry the bill.{Tape : 3; Side : A; Approx. Time Counter : 12.2 - 15.4}

EXECUTIVE ACTION ON SB 135

Motion: REP. DELL moved that SB 135 BE CONCURRED IN.

Discussion: Rep. Rice said she was concerned about the subpoena powers and thought this was too broad of a scope to give to them. Rep. Schmidt said she had listed to the ombudsman give reports to the interim committee and felt that Ms. Adee would not be

requesting this power if she didn't feel that it would be helpful. **Rep. Brown** had the same concern and asked the other attorneys on the committee if they felt subpoena powers would be appropriate. **Rep. Shockley** said he felt uncomfortable with it. **Rep. Newman** said it is unusual but not unprecedented. **Rep. Noennig** said it isn't a wise policy to grant a power to an office based on the person who currently holds the office. Further discussion was held on subpoena powers. **Rep. Shockley** said there are other avenues to obtain subpoenas, with the logical avenue being to go through agency counsel and present it to a court and get the subpoena. **Rep. Esp** questioned the change on line 27 that changed from the Attorney General's office providing counsel to the ombudsman retaining counsel, and he wondered where they retain the counsel from, who pays for it and how. **Rep. Facey** said he thought that proposed change was to avoid a perceived conflict of interest between the Attorney General's office and what the ombudsman wants to find out. There are conflicts between the department, providers and the consumer, and the ombudsman's office is trying to mediate those conflicts.

Substitute Motion: **REP. SHOCKLEY** made a substitute motion that **SB 135 BE TABLED**. In response to Rep. Schmidt's question, **Mr. Niss** clarified the amendment that allowed the ombudsman to have the choice either to obtain legal services from the Attorney General's office, paying for them on a hourly basis like other state agencies do, or could seek outside counsel. **Rep. Shockley withdrew his motion.**

Motion: **REP. FACEY** made a motion that **SB 135 BE AMENDED**.

Discussion: **Rep. Facey** said his amendment would strike lines 24 and 25 from the bill, because he thinks subpoena powers can be obtained in other appropriate manners. Question was called for.

Motion/Vote: **REP. FACEY** made a motion that **SB 135 BE AMENDED**. motion carried unanimously.

Motion/Vote: **REP. SHOCKLEY** moved that **SB 135 BE CONCURRED IN AS AMENDED**. Motion carried 6-2 with **Fuchs** and **Ripley** voting no. **Rep. Facey** will carry the bill. {Tape : 3; Side : A; Approx. Time Counter : 15.4 - 27.9}

ADJOURNMENT

Adjournment: 5:42 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/Jan Brown transcribed these minutes

EXHIBIT (huh56aad)